IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 29362 of 2004(U)

AGAINST THE ORDER DATED 8/3/2004 IN IA.194/04 IN OS.71/2003 of SUB COURT, NEDUMANGAD

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PETITIONER:

GOPINADHAN NAIR, S/O.LATE
NARAYANAN NAIR, RESIDING AT GIRI BHAVAN,
KALLAR, VITHURA VILLAGE, NEDUMANGAD,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.B.PRADEEP
SMT.PREETHI RAMAKRISHNAN

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE VITHURA GRAMA PANCHAYAT,
REPRESENTED BY THE SECRETARY,
VITHURA, THIRUVANANTHAPURAM.

3. THE R.R.DEPUTY TAHSILDAR,
NEDUMANGAD, THIRUVANANTHAPURAM.

4. THE VILLAGE OFFICER,
VITHURA VILLALGE, VITHURA,
THIRUVANANTHAPURAM.

R1, R3, R4 BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA.
R2 BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.PIRAPPANCODE V.S.SUDHIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.29362/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF I.A.194/04 DT.8.3.04 IN O.S.71/04 OF SUB COURT, NEDUMANGAD.

EXT.P2 – TRUE COPY OF ORDER DT.31.3.04 PASSED IN EXT.P1 APPLICATION.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.29362 OF 2004

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DATED THIS THE 12TH JUNE, 2007

J U D G M E N T

A suit for injunction filed by the petitioner was rejected due to non-payment of court-fee. The application for review filed by the petitioner was allowed by the court conditionally by Ext.P2 order. The condition imposed was that a sum of Rs.750/- shall be paid to the respondents-defendants on or before the next hearing date. It is submitted that on the next hearing date, i.e.,31.3.2004, when the case was called, a request for enlargement of time was made on behalf of the petitioner and the learned Sub Judge, noticing that Ext.P2 is a self-working order, dismissed the review petition on the basis that cost is not paid within the stipulated time.

2. Heard Sri.K.B.Pradeep, learned counsel for the petitioner and Sri.Pirappancode V.S.Sudheer, counsel for the 2nd respondent-Panchayat. I heard the learned Government Pleader also.

3. Having regard to the rival submissions addressed at the Bar, I am of the view that considerations of justice demand that the petitioner be given an opportunity to prosecute the suit by remitting the balance court-fee. But I am inclined to grant such opportunity only on strict terms. Ext.P2 will stand set aside and the application for

review, I.A.No.194 of 2004 will stand allowed, provided the petitioner complies with the following conditions:-

1) The petitioner will deposit before the trial court the sum of Rs.750/- ordered by that court as costs, within three weeks from today.

2) The petitioner will pay a sum of Rs.250/- to the 2nd respondent-Panchayat through its counsel in this Court by way of costs, within three weeks from today.

3) The petitioner will also pay to respondents 1, 3 and 4, through the Office of the Advocate General, a sum of Rs.500/- as costs within the same time-limit.

4) Over and above all the above payments, the petitioner will pay a sum of Rs.500/- to the High Court Legal Services Committee within the same time-limit.

If all the above payments are made, Ext.P2 will stand set aside and I.A.No.194 of 2004 will stand allowed. If payments are defaulted, Ext.P2 will stand confirmed and the Writ Petition will stand dismissed.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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